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Paper No: 12

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JUL 05 2005

OFFICE OF PETITIONS

In re Application of
Jeffers, et al. :
Application No. 09/992,840 :
Filed: 6 November, 2001 :
Attorney Docket No. 15966-557A (Cura 57A) :

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 8 October, 2004.

The Office regrets the delay in addressing this matter

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 6 November 2001, without, *inter alia*, a fully executed oath or declaration;
- the Office mailed a Notice of Missing Parts (*inter alia*, oath/declaration) on 5 December, 2001 (the 5 December Notice), however, it appears that the 5 December Notice was not received by Petitioner, and ultimately the Office re-mailed the Notice on 22 January, 2004 (the 22 January Notice), with a response due absent extension of time on or before 22 March 2004;

- on 22 June, 2004, Petitioner filed, *inter alia*, a request and fee for a three- (3-) month extension of time, an oath/declaration signed by the inventors (on behalf of themselves and) save for the non-responsive inventor Elma Fernandes (Ms. Fernandes), and the instant petition (statements by Ivor Elrifi (Reg. No 39,529) and Kristin E. Konzak (Reg. No. 44,848) along with a statement by Nicole Carlucci and a copy of a transmittal letter, which is explicit that Petitioner transmitted only the oath/declaration (with assignment), and the petition was dismissed on 16 September, 2004, for failure to transmit the entire application (specification: description abstract claims and drawings) to the non-signing inventor Ms. Fernandes;
- the instant petition cures that deficiency and sets forth a current address for the non-signing inventor Ms. Fernandes.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a).**

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision
before being released for examination in due course.

Telephone inquiries concerning **this decision** may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions



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OFFICE OF PETITIONS

In re Application of
Jeffers, et al.
Application No. 09/992,840
Filed: 6 November, 2001
Attorney Docket No. 15966-557A (Cura 57A)

COMMUNICATION

Dear Elma Fernandes:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,¹ ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

¹ The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.



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